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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,454	10/28/1999	NAOYUKI NISHIKAWA	BRS-180.1	4677
5514	7590	02/05/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			TRAN, PHUOC	
		ART UNIT	PAPER NUMBER	
		2621		
DATE MAILED: 02/05/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/428,454	NISHIKAWA, NAOYUKI
	Examiner Phuoc Tran	Art Unit 2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 28 October 2003.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 1-18 and 34-37 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 19-24, 29 and 30 is/are rejected.
- 7) Claim(s) 25-28 and 31-33 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 October 1999 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

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1. Applicant's election with traverse of Species III, claims 19-33 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that there would not be under burden in examining all species in a single application. This is not found persuasive because different species have different search fields. For example, the search for "analyzing the reduced image information" (class/subclass 382/298) is not required for claims 19-33 of Species III.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19-20, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Echerer et al [U. S. Patent No. 5,740,267].

As to claim 19, Echerer et al disclose an image processing method applied to an apparatus capable of storing a plurality of files where image data is recorded, comprising: a search step of searching a file corresponding to satisfying a predetermined condition (col. 8, lines 37-55; the image filename is retrieved from the Image Database and then a copy of the image is retrieved from a memory); a calculation step of analyzing image data stored in the file and calculating a correction parameter (col. 8, line 56 – col. 9, lines 16; i.e. determining one or more different modifications, enhancements, extraction and manipulations modifications); and control step of controlling said calculation step at an execution timing set according to user's designation (col. 9,

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lines 17-36; i.e. the list of operations according to user's designation can be performed on an image).

As to claim 20, the predetermined condition used in search step is a unique filename (col. 8, lines 24-25, lines 45-50).

As to claim 22, note column 8, line 56 to column 9, line 48.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21, 23-24, 29, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Echerer et al.

Claim 23 is simply directed to a software implementation of the method of claim 19.

Although Echerer et al do not describe a recording medium comprising program codes of an image processing method of claim 19, such software implementation would have been obvious to one of ordinary skill in the art. It is simply an obvious matter of design choice.

As to claims 21, 24, Echerer et al clearly suggest at column 9, lines 49-55 (i.e. Analysis file is attached to the image file) that adding Analysis File (correction parameter) to image data file would be economies of scale that can hold the Analysis Files in the same computer file format that contains image itself and insure that the Analysis Files are never separated from the image. Therefore, It would have been obvious to one of ordinary skill in the art to add correction

parameter (Analysis Files) to the image file because Echerer et al clearly suggest the benefits of such modification.

As to claim 29, note column. 10, lines 53-60.

As to claim 30, note column 18, line 65 to column 17, line 39.

6. Claims 25-28, 31-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wang et al is cited for disclosing the state of the art of image processing system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc Tran whose telephone number is (703) 305-4861. The examiner can normally be reached on MON-FRI.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo H Boudreau can be reached on (703) 305-4760. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

*Phuoc Tran*  
PHUOC TRAN  
PRIMARY EXAMINER